

## **R E M A R K S**

- Claims **1-58** are pending in the present application
- Claims **1-58** stand rejected

### **A.   Summary of Telephone Interview**

Our representative held a telephone interview with Examiners Kazimi and Karmis on June 21, 2005. The Examiners agreed with us that in order to rely upon the asserted subject matter of the Herman CIP (6341353) to reject any pending claim, the Herman provisional must provide description of that subject matter in compliance with 35 U.S.C. § 112, first paragraph. The Examiners asserted that Column 44, lines 5-20 and 33-44, are adequately supported by the paragraph bridging pages 9 and 10 of the Herman provisional. We requested that the Examiners identify the particular portion(s) of the Herman provisional that properly describe and enable the cited portion of Column 47 relied upon in the rejection of Claim 1. Examiner Kazimi responded that it is the position of the Office that the Herman provisional provides support for all of the cited subject matter of the Herman CIP. Examiner Kazimi also stated that the Herman provisional discloses a "trusted agent server." We agreed that the Herman provisional describes a "trusted agent server," but also replied that the Herman provisional does not describe the subject matter relied in the cited portion of Column 47 in a manner that would satisfy 35 U.S.C. § 112, first paragraph. In response, Examiner Kazimi again stated that the Herman provisional properly supported the cited subject matter of the Herman CIP. Examiner Kazimi further stated that the Examiners would not identify, during the interview, the support for the subject matter disclosed at Column 47, lines 15-19, as it would take too long to find the support in the Herman provisional.

### **B. Section 102(e) and 103(a) Rejections**

All of the pending claims (Claims 1-58) stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,341,353 issued to Herman et al. ("the Herman CIP") or under 35 U.S.C. 103(a) as unpatentable over Herman in view of U.S. Patent No. 6,161,059 issued to Tedesco et al. ("Tedesco"). The Herman CIP is a continuation-in-part (CIP) of U.S. Patent No. 6,119,229 ("the Martinez patent"), but the Examiner explicitly "has only relied upon the provisional application, filed 12 December 1998, to establish priority and provide an effective 102(e) date." [Office Action, page 3]. We respectfully traverse the Examiner's Section 102(e) rejection and Section 103(a) rejections. We respectfully submit that the Examiner has not established a *prima facie* case of anticipation or obviousness for any of the independent claims (Claims 1, 6, 44, 51, and 56) or any claims depending therefrom.

We incorporate by reference our reply filed March 16, 2005. We do not believe the record supports the Examiner's reliance on the Herman CIP as a § 102(e) reference for all of the subject matter relied upon. In particular, the rejection of each of the independent claims depends explicitly on the following specific portion(s) of the Herman CIP: Column 47, lines 8-19 and/or Column 47, lines 15-19. The Herman provisional does not adequately support that disclosure of the Herman CIP. The Examiner does not provide any indication in the record as to what portion(s) of the Herman provisional the Examiner believes supports the cited disclosure in compliance with 35 U.S.C. 112, first paragraph. That cited portion cannot be relied upon in rejecting any of the independent claims (Claims 1, 6, 44, 51, and 56) under § 102(e). The Examiner has failed to establish the Herman CIP as a proper § 102(e) reference for rejecting any claim, and accordingly has failed to establish a *prima facie* case of anticipation or obviousness for any of pending Claims 1-58. We respectfully request the Examiner's reconsideration of the present rejections.

We note that we do not necessarily agree or disagree that any cited portion of the asserted references teaches any limitation of any pending claim. We also do not necessarily agree or disagree with the Examiners' assertion during the interview that Column 44, lines 5-20 and 33-44 of the Herman CIP are adequately supported by the paragraph bridging pages 9 and 10 of the Herman provisional. We reserve the right to address in the future each of these and other assertions as to the teachings of the cited references (and/or evidence of priority of such asserted subject matter).

**C. Authorization to Charge Appropriate Fees**

We do not believe that any fees are necessary for this response.

Please grant a petition for any extension of time required to make this Response timely.

If necessary, please charge any appropriate fees necessary per the following information:

Deposit Account: 50-0271

Order No.: 99-012

Please credit any overpayment to the same account.

*A duplicate copy of this authorization is enclosed for such purposes.*


**D. Conclusion**

It is submitted that all of the claims are in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at [mdowns@walkerdigital.com](mailto:mdowns@walkerdigital.com).

June 22, 2005  
Date

Respectfully submitted,

  
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